of incorporation provided that stock could not be transferred unless it had first been offered for sale to the other stockholders upon terms to be fixed by a subsequent agreement, but upon the refusal of the stockholders to purchase, the stock should no longer be subject to the restriction. All the stockholders entered into such an agreement, which was embodied in a by-law. Notice of the agreement and by-law was stamped upon the certificates of stock. The complaint alleged that the defendant brother had transferred stock to his wife without consideration, without having offered the same to the other stockholders, and asked that the wife be deemed to have no title to the stock. The wife demurred to the complaint. *Held,* that the demurrer be overruled. *Bloomingdale v. Bloomingdale* (1919, Sup. Ct.) 177 N. Y. Supp. 873.

The great weight of authority holds a by-law prohibiting any transfer of stock without the consent or approval of the officers or members of a corporation to be in restraint of trade and void. *Finch v. Macoupin Tel. & Tel. Co.* (1908) 146 Ill. App. 158; *Miller v. Farmers Milling & Elev. Co.* (1907) 78 Neb. 441, 110 N. W. 995. Such a by-law puts the stockholder under a disability to transfer his stock without the consent of the corporation, which is inconsistent with the incidents of the ownership of personalty. *In re Klaus* (1886) 67 Wis. 401, 29 N. W. 582. The effect of such a by-law as that in the instant case could not be to destroy the power to transfer stock, but only to limit the parties to whom the transfer could be made in the first instance, i. e., to confer upon specified parties a right of preëmption. *Cf.* (1918) 28 YALE LAW JOURNAL, 65. The weight of modern authority is in accord with the principal case. *Ganet v. Philadelphia Lawn Motor Co.* (1909) 39 Pa. Super. Ct. 78; *Chaffee v. Farmers' Co-op. Elev. Co.* (1918, N. D.) 168 N. W. 616. Such by-laws have been specifically enforced as contracts against stockholders who were parties to their enactment. *New England Trust Co. v. Abbott* (1894) 162 Mass. 148, 38 N. E. 432; *Weiland v. Hogan* (1913) 177 Mich. 626, 143 N. W. 599. According to this view, the stockholder would have the power, although not the privilege, of effecting a transfer to a purchaser for value without notice of the contract. Under the provision of the Uniform Stock Transfer Act which provides that there shall be no restriction upon the transfer of shares, unless the restriction is stated in the certificate—it is submitted that, in the absence of notice stated in the certificate, the owner would have the power of making a valid transfer although the purchaser had knowledge of the by-law. See (1910) Uniform Stock Transfer Act, sec. 15. The Act thus gives the stockholder a greater power of transfer than where the by-law is enforced as a contract.

CRIMINAL LAW — HOMICIDE — SELF-DEFENCE — PURSUIT OF ADVERSARY. — The accused engaged in a struggle which resulted in the death of his adversary. There was evidence tending to show that the deceased had struck the first blow and that he had seriously cut the hand of the accused with a piece of plank large enough to crush a man's skull. The accused defended himself with a knife and, in the course of the struggle, followed his retreating assailant for forty or fifty steps. The trial court charged the jury that the accused, if attacked, was under no duty to retreat; but did not instruct that the accused was privileged to pursue his assailant until the danger was over. *Held,* that the failure to so instruct was error. *Taylor v. State* (1919, Tex. Cr. App.) 213 S. W. 985.

The ancient common-law doctrine as to the duty of one, when attacked, to "retreat to the wall" has been abandoned, except in a few jurisdictions. See (1909) 18 YALE LAW JOURNAL, 648. The "stand ground when in the right" rule is now generally adopted. *Hammond v. People* (1902) 199 Ill. 173, 64 N. E. 980; *Runyan v. State* (1877) 57 Ind. 80. This rule is adopted universally when the encounter took place on the premises of the accused. See (1910) 20

YALE LAW JOURNAL, 77. The cases cited above show, however, that this rule is by no means limited to that extent. Some courts hold that the old common law is no longer applicable to modern American conditions; possibly this view was a result of the more general use of fire-arms. Others put it on the basis that the privilege to stand ground to prevent a felony includes the privilege to prevent felonious attacks on one's own person, as well as to prevent some other felony, such as robbery, etc. *State v. Dixon* (1876) 75 N. C. 275; *Ragland v. State* (1900) 111 Ga. 211, 36 S. E. 682. However that may be, it has long been recognized that the privilege to pursue an assailant who is attempting to commit murder or inflict serious physical injury was essential to make complete the privilege of self-defence. See 1 East, *Pleas of the Crown* (1806) 271, 272. Comparatively few cases have been decided on this point. There seems to have been some extenuating circumstance in almost every instance. *Luby v. Commonwealth* (1876, Ky.) 12 Bush, 1 (attack made when the assailant was on the premises of the accused); *Stoneham v. Commonwealth* (1890) 86 Va. 523, 10 S. E. 238 (attempt to rob the accused); *Conner v. State* (1893, Miss.) 13 So. 934 (assailant retired to procure a deadly weapon with which to renew the contest); *State v. Thompson* (1893) 45 La. Ann. 969, 13 So. 392 (several persons made the attack); *Stanley v. State* (1898 Tex. Cr. App.) 44 S. W. 519 (assailant was retreating to a more favorable position). The last of the cases cited comes very close to the situation in the principal case. The decision is in accord with what has been the general tendency of development in this line of cases.

DAMAGES—CONSEQUENTIAL DAMAGES—NOTICE.—In response to a telegram from the plaintiff, the department of agriculture of the State of Virginia delivered to the defendants a package of hog cholera serum consigned to the plaintiff. At the time of the shipment the consignor notified the defendant of the nature of the article shipped and the necessity for a quick delivery. As a result of the defendant's negligence, the article was not delivered until one week later. The plaintiff brought this action on the contract between the consignor and the defendant, a provision of which made it enure to the benefit of the consignee, alleging that, as a result of their inexcusable delay, he was deprived of the use of the serum as a preventive treatment, and thereby lost certain hogs by death from cholera. There was evidence that the serum was successful as a preventive treatment in about ninety *per cent.* of the cases. This serum was prepared only by the department of agriculture to be distributed directly to owners of hogs solely for the purpose of preventing disease which was not epidemic at the time. *Held,* that the plaintiff should recover damages for the loss of the hogs. *Allen v. Adams Express Co.* (1919, Va.) 100 S. E. 473.

It is generally stated by the courts in actions for breach of contract, that recovery can be had for such damages only as are the natural and probable consequence of the breach; that unusual or special damages are not recoverable unless they ought reasonably to have been contemplated by the parties when the contract was made. *Cf. Hadley v. Baxendale* (1854) 9 Exch. 541; *cf. Cohen v. Norton* (1889) 57 Conn. 480, 18 Atl. 595. But the same test was evidently applied in determining ordinary damages as in the case of special damages, for a decision that damages are "ordinary" is in itself a holding that they should reasonably have been contemplated. See Smith (1900) 16 L. QUART. REV. 277. In neither case is it necessary that the parties actually foresee the consequences. The test is purely an objective one. See *Hydraulic Engineering Co. v. McHaffie* (1878) 4 Q. B. D. 670, 677. What circumstances are sufficient to constitute notice to the average man situated as is the defendant, is usually a question of fact for the jury. *Southern R. R. v. Longley* (1913) 184 Ala. 524, 63 So. 545. It has been held that the nature of the article shipped is sufficient evidence from which the jury may find notice. *Weston v. Boston and Maine R. R.* (1906) 190